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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,341	12/14/2006	Christian M. Stich	1034193-000050	3525

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EXAMINER

TECKLU, ISAAC TUKU

ART UNIT	PAPER NUMBER
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2192

NOTIFICATION DATE	DELIVERY MODE
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01/20/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
offserv@bipc.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/575,341	Applicant(s) STICH ET AL.
	Examiner ISAAC TECKLU	Art Unit 2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1, 4-6, 8-9, 12-14, 16-21.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/ISAAC TECKLU/
Primary Examiner, Art Unit 2192

Continuation of 13. Other: Applicant's arguments with respect to claims 1, 4-6, 8-9, 12-14 and 16-21 have been considered but are not persuasive.

Applicant argues:

a) "none of the cited art suggests or discloses a distributed automation system" (Remark, pp. 8)

b) "The Moshir document simply does not disclose an installation tool which automatically checks software packages taking account of stipulation in addition to rules and dependencies (Remark, pp. 8)

c) "Te'eni, even when considered in combination with the other four cited documents, does not suggest or disclose an installation tool which provides automatic checking among distributed 'system components'" (Remark, pp. 9); "The Moshir document also fails to disclose or suggest checking among distributed system components because Moshir is also directed to personal computers" (Remark, pp. 9)

d) "The Gonzalez document cannot be properly combined with features from the other cited documents, such as Wookey, to cure this defect, as Wookey teaches away from the asserted combination. (Remark, pp. 9)

Examiner response:

a) The Examiner respectfully disagrees with the above argument. Gonzalez discloses distributed automation system (e.g. FIG. 1, Distrubed System 10).

b) and C) The Examiner respectfully disagrees with the above argument. Examiner has indicated that neither Gonzalez, Wookey nor Brown explicitly discloses an installation tool which automatically checks software packages taking account of stipulation in addition to rules and dependencies. Nevertheless, as evidenced by the teaching of Moshir and Te'eni, it is commonly known to have an installation tool automatically check software packages taking account of stipulation in addition to rules and dependencies (Te'eni: e.g. col.7:35-40 and Moshir Fig. 8, 808, 810).

Furthermore with respect to the above argument "The Moshir document also fails to disclose or suggest checking among distributed system components because Moshir is also directed to personal computers", Examiner would like to indicate that the plain claim language "amon the system component" does not exclude personal computers. Simply put the plain claim language does not include operator stations, engineering stations etc. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1 181, 26 USPQ2d 1057 (Fed. Cir. 1993).

d) In response to the above argument, examiner would like to indicate that the rejection has set forth a combined teachings based on specific rationale rendering obvious the claimed invention. The examiner has clearly articulated the reasons why the claimed invention would have been obvious in the Office Action. Applicant is required to provide very specific counter arguments as to why such combination would have been undesirable or how the reasoning set forth in the Office Action is improper. Thus, Applicant's arguments fail to comply with 37 CFR 1.111 (b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Thus, the rejections will stand as set forth in the above office action.